

FOREST PRODUCTS POLICY CHANGE



Kaibab National Forest

Website: www.fs.usda.gov/kaibab

Coconino National Forest

Website: www.fs.fed.us/r3/coconino

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New Policy for Free Forest Products to Native Americans

The Kaibab and Coconino National Forests have developed a new policy for providing free forest products to Native Americans for traditional and cultural purposes. The forests developed this policy in cooperation with area tribes and traditional practitioners in response to requests from tribal members. The new policy will become **effective on April 1, 2012**, and applies to all ranger districts on both forests. The objective of this policy is to accommodate traditional use of the forests by Native Americans while ensuring that collection of forest products does not result in undesirable impacts to natural and cultural resources.

The following are highlights of the new policy:

- This policy is intended for the collection of resources by Native Americans for traditional and cultural purposes. Forest products procured under this policy may not be sold commercially.
- With the exception of timber products and fuelwood, no permit will be required for small amounts of forest products, including medicinal plants, for traditional and cultural purposes.
- A permit will be required for the collection of fuelwood for ceremonial purposes. The forests have refined the process for providing free permits to tribal members for this purpose. Ceremonial fuelwood permits will be issued during the personal use fuelwood season on each ranger district (typically early April to late October) and will generally be limited to two cords per person. Requests exceeding the two cord limit must be made in writing and will be considered on a case-by-case basis.
- The forests have developed a process for tribes to request other free timber products, such as posts, poles, vigas, and timbers for traditional and cultural purposes. All such requests must be made in writing and will be considered on a case-by-case basis.

Kaibab and Coconino National Forests Official Policy on Forest Products for Traditional and Cultural Purposes

Introduction: The Kaibab and Coconino National Forests (Forests) recognize the importance of providing access to forest products to Native Americans for traditional and cultural purposes. Current Forest Service policy directs Forests to “assist tribal members in securing ceremonial and medicinal plants, (FSM 1563.03).” The Kaibab and Coconino National Forests will accommodate traditional use of the Forests by Native Americans provided it complies with existing laws and regulations. The Forests may amend this policy to address future issues in consultation with federally recognized tribes. This policy will become effective on April 1, 2012, and will be reviewed every five years.

Definition: TRADITIONAL AND CULTURAL PURPOSE- The term ‘traditional and cultural purpose’, with respect to a definable use, area, or practice, means that the use, area, or practice is identified by an Indian tribe as traditional or cultural because of the long-established significance or ceremonial nature of the use, area, or practice to the Indian tribe (Food, Conservation, and Energy Act of 2008).

Objectives: The objectives of this policy are: 1) To provide simple, clear and consistent policy on Native American traditional use for both Forests, 2) To accommodate traditional use of the Forests by Native Americans, and 3) To prevent resource damage and ensure that collection of forest products does not result in undesirable impacts to natural and cultural resources.

Legal Authority: This policy is guided by existing law, regulation, and policy regarding Native American traditional use of Forest Service Land.

- Food, Conservation, and Energy Act of 2008, SEC. 8105. Forest Products for Traditional and Cultural Purposes.
 - (a) In General- Notwithstanding section 14 of the National Forest Management Act of 1976 (16 U.S.C. 472a), the Secretary may provide free of charge to Indian tribes any trees, portions of trees, or forest products from National Forest System land for traditional and cultural purposes.
 - (b) Prohibition- Trees, portions of trees, or forest products provided under subsection (a) may not be used for commercial purposes.
- American Indian Religious Freedom Act.
 - Henceforth it shall be the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.
- Religious Freedom Restoration Act.
 - (a) IN GENERAL. -- Government shall not substantially burden a person's exercise of religion even if the burden results from a rule of general applicability, except as provided in subsection (b).
 - (b) EXCEPTION. -- Government may burden a person's exercise of religion only if it demonstrates that application of the burden to the person --

- (1) furthers a compelling governmental interest; and
- (2) is the least restrictive means of furthering that compelling governmental interest.
- Forest Service Manual 1563.03.
 - Administer programs and activities in a manner that is sensitive to traditional American Indian and Alaska Native spiritual beliefs and practices and assist tribal members in securing ceremonial and medicinal plants...and the use of specific geographic places, consistent with Federal policy under AIRFA and E.O. 13007 (FSM 1563.01e).
- Kaibab and Coconino National Forest existing Memoranda of Understanding with tribes.
 - The Forest[s] shall “[a]llow access to shrines and resources... for traditional uses, including the collection of medicinal and ceremonial plants from traditional use areas. Such access is assured through the American Indian Religious Freedom Act and Executive Order 13007, provided the activity is in compliance with other laws and regulations (including Forest Service Manual 1563 and the Code of Federal Regulations). [Tribal members] are encouraged but not required to obtain a free-use permit and information on local availability and access...”

Policy: The following are policies on providing specific forest products to Native Americans for traditional and cultural purposes. Policy direction is provided for three categories of forest products, 1) ceremonial fuelwood, 2) timber products, and 3) all other forest products. All forest products collected under these permits must be for traditional use only and may NOT be used for commercial purposes. An individual found to be in violation of this policy may receive a citation or the Forests may refuse subsequent requests for permits. For any request outside the scope of this policy, an individual or Tribe may outline the request to the Forest Supervisor or District Ranger in writing and each request will be considered on a case-by-case basis.

Ceremonial Fuelwood

- Free ceremonial fuelwood, including ponderosa pine, pinyon pine, juniper and oak, will be provided at no charge to tribes and tribal members under the following conditions. Unless otherwise stated below, all fuelwood permit requirements at the District level apply to any ceremonial fuelwood permit:
 - A permit is required for all ceremonial fuelwood. There is no fee for a ceremonial fuelwood permit.
 - A valid Native American Church membership card, tribal identification card, or a letter from a Tribe or Tribal Chapter requesting free ceremonial fuelwood is required.
 - A limit of one cord per permit, two permits per year, will be issued to any individual for free ceremonial fuelwood. Requests for ceremonial fuelwood exceeding this amount must be made in writing to the Forest Supervisor or District Ranger and will be addressed on a case-by-case basis.
 - Ceremonial fuelwood permits will be valid for up to one month within the regular fuelwood season.
 - There are no length restrictions for ceremonial fuelwood.
 - Permits for collection of **oak** are for dead and down oak only unless otherwise stated specifically in the permit.
 - Ceremonial fuelwood permits will not be issued outside of the personal use/commercial use fuelwood season.
 - Unless otherwise stated here, all other local restrictions for fuelwood cutting apply to ceremonial fuelwood permits.
 - Any area off-limits to personal use fuelwood cutting is also off limits for collection of fuelwood under a ceremonial permit.

- Individuals must be present to have a ceremonial collection permit issued. Requests on behalf of another person will be denied.
- If an individual indicates that requested fuelwood is not for ceremonial purposes, the request for ceremonial fuelwood will be denied.

Timber Products

- Timber products other than fuelwood, including trees, posts, poles, saplings, and other special timber products, will be provided to tribes and tribal members at no charge under the following conditions.
 - A permit is required for all timber products for traditional use. There is no fee for this permit.
 - Requests for traditional use timber products must be made in writing to the Forest Supervisor or District Ranger. The request must state that the materials are needed for traditional use.
 - Transportation of timber products must be provided by the individual or tribe requesting the materials.
 - Any area off-limits to personal use fuelwood cutting is also off limits for collection of timber products under a ceremonial permit.

Other Forest Products

- No permit is required for the collection of small amounts of forest products by Native Americans for medicinal, ceremonial and traditional uses provided resource damage is not occurring. Forest products covered under this policy include small amounts of plants, wildflowers, mushrooms, moss, nuts, seeds, bark, berries, boughs, branches, cones, grasses, seeds, soil, and minerals. Tribal members are encouraged, but not required, to obtain a free-use permit and information on local availability and access of forest products by contacting a Forest Service office. The Forests will address specific resource issues resulting from the collection of forest products on a case-by-case basis in consultation with federally recognized tribes.
- Tribal members are advised that some forest products, such as agave, DO require a permit from the State of Arizona. Tribal members are encouraged to contact the State of Arizona regarding State permit requirements.
- The U. S. Fish and Wildlife Service (FWS) is the responsible agency for issuing permits for listed Threatened and Endangered (T & E) species federally listed under the Endangered Species Act (1973) that occur on the Forests. When tribal members request collection permits for T&E plant species, the Forests will immediately refer them to the FWS. The FWS maintains lists for Threatened and Endangered (T & E) species federally listed under the Endangered Species Act (1973) at www.fws.gov/angered/
- Tribal members can contact the following Tribal Relations staff on the Forests for information and assistance regarding collection of forest products: Michael Lyndon, Kaibab National Forest Tribal Liaison, 928-635-8272; Craig Johnson, Coconino National Forest Tribal Liaison, 928-527-3475; Mable Franklin, Kaibab National Forest Navajo Liaison, 928-679-2037.